

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

MAY 15 2019

Clerk, US District Court
District of Montana - Billings

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES KEITH BELLROCK, JR.,

Defendant.

CR 19-11-BLG-SPW

ORDER

Before the Court is the Defendant's motion to dismiss the indictment on double jeopardy grounds. The Defendant argues his federal prosecution for assault resulting in substantial bodily injury to a dating partner and assault of a dating partner by strangulation are barred by double jeopardy because he was charged and convicted of aggravated assault in Crow Tribal Court based on the same conduct.

The Defendant acknowledges his argument is foreclosed by *United States v. Wheeler*, 435 U.S. 313 (1978), but argues circumstances have changed since *Wheeler* was decided. Even if the Court agreed with the Defendant, it is bound by Supreme Court precedent and has no choice but to follow it. *Hart v. Massanari*, 266 F.3d 1155, 1175 (9th Cir. 2011). The Defendant's motion to dismiss (Doc. 19) is denied.

DATED this 15th day of May, 2019.

Susan P. Watters
SUSAN P. WATTERS
U.S. DISTRICT JUDGE